



## Senate

General Assembly

**File No. 422**

February Session, 2000

Substitute Senate Bill No. 525

*Senate, April 5, 2000*

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11<sup>th</sup> Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***An Act Making Changes To Various Sales And Use Tax Statutes And The Admissions And Dues Tax Statutes.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Subdivision (2) of section 12-407 of the general statutes, as  
2       amended by section 10 of public act 99-173 and section 10 of public act  
3       99-285, is repealed and the following is substituted in lieu thereof:

4       (2) "Sale" and "selling" mean and include: (a) Any transfer of title,  
5       exchange or barter, conditional or otherwise, in any manner or by any  
6       means whatsoever, of tangible personal property for a consideration;  
7       (b) any withdrawal, except a withdrawal pursuant to a transaction in  
8       foreign or interstate commerce, of tangible personal property from the  
9       place where it is located for delivery to a point in this state for the  
10      purpose of the transfer of title, exchange or barter, conditional or  
11      otherwise, in any manner or by any means whatsoever, of the property  
12      for a consideration; (c) the producing, fabricating, processing, printing

13 or imprinting of tangible personal property for a consideration for  
14 consumers who furnish either directly or indirectly the materials used  
15 in the producing, fabricating, processing, printing or imprinting,  
16 including but not limited to, sign construction, photofinishing,  
17 duplicating and photocopying; (d) the furnishing and distributing of  
18 tangible personal property for a consideration by social clubs and  
19 fraternal organizations to their members or others; (e) the furnishing,  
20 preparing, or serving for a consideration of food, meals or drinks; (f) a  
21 transaction whereby the possession of property is transferred but the  
22 seller retains the title as security for the payment of the price; (g) a  
23 transfer for a consideration of the title of tangible personal property  
24 which has been produced, fabricated or printed to the special order of  
25 the customer, or of any publication, including but not limited to, sign  
26 construction, photofinishing, duplicating and photocopying; (h) a  
27 transfer for a consideration of the occupancy of any room or rooms in a  
28 hotel or lodging house for a period of thirty consecutive calendar days  
29 or less; (i) the rendering of certain services for a consideration,  
30 exclusive of such services rendered by an employee for [his] the  
31 employer, as follows: (A) Computer and data processing services,  
32 including but not limited to, time, and exclusive of services rendered  
33 in connection with the creation, development hosting or maintenance  
34 of all or part of a web site which is part of the graphical, hypertext  
35 portion of the Internet, commonly referred to as the World-Wide Web,  
36 (B) credit information and reporting services, (C) services by  
37 employment agencies and agencies providing personnel services, (D)  
38 private investigation, protection, patrol work, watchman and armored  
39 car services, exclusive of services of off-duty police officers and  
40 off-duty fire fighters, (E) painting and lettering services, (F)  
41 photographic studio services, (G) telephone answering services, (H)  
42 stenographic services, (I) services to industrial, commercial or  
43 income-producing real property, including, but not limited to, such  
44 services as management, electrical, plumbing, painting and carpentry  
45 and excluding any such services rendered in the voluntary evaluation,

46 prevention, treatment, containment or removal of hazardous waste, as  
47 defined in section 22a-115, or other contaminants of air, water or soil,  
48 provided income-producing property shall not include property used  
49 exclusively for residential purposes in which the owner resides and  
50 which contains no more than three dwelling units, or a housing facility  
51 for low and moderate income families and persons owned or operated  
52 by a nonprofit housing organization, as defined in subsection (29) of  
53 section 12-412, (J) business analysis, management, management  
54 consulting and public relations services, excluding (i) any  
55 environmental consulting services, and (ii) any training services  
56 provided by an institution of higher education licensed or accredited  
57 by the Board of Governors of Higher Education pursuant to section  
58 10a-34, (K) services providing "piped-in" music to business or  
59 professional establishments, (L) flight instruction and chartering  
60 services by a certificated air carrier on an aircraft, the use of which for  
61 such purposes, but for the provisions of subsection (4) of section 12-410  
62 and subsection (12) of section 12-411, would be deemed a retail sale  
63 and a taxable storage or use, respectively, of such aircraft by such  
64 carrier, (M) motor vehicle repair services, including any type of repair,  
65 painting or replacement related to the body or any of the operating  
66 parts of a motor vehicle, (N) motor vehicle parking, including the  
67 provision of space, other than metered space, in a lot having thirty or  
68 more spaces, excluding (i) space in a seasonal parking lot provided by  
69 a person who is exempt from taxation under this chapter pursuant to  
70 subsection (1), (5) or (8) of section 12-412, (ii) space in a parking lot  
71 owned or leased under the terms of a lease of not less than ten years'  
72 duration and operated by an employer for the exclusive use of its  
73 employees, (iii) valet parking provided at any airport, and (iv) space in  
74 municipally-operated railroad parking facilities in municipalities  
75 located within an area of the state designated as a severe  
76 nonattainment area for ozone under the federal Clean Air Act, (O)  
77 radio or television repair services, (P) furniture reupholstering and  
78 repair services, (Q) repair services to any electrical or electronic device,

79 including, but not limited to, [such] equipment used for purposes of  
80 refrigeration or air-conditioning, (R) lobbying or consulting services  
81 for purposes of representing the interests of a client in relation to the  
82 functions of any governmental entity or instrumentality, (S) services of  
83 the agent of any person in relation to the sale of any item of tangible  
84 personal property for such person, exclusive of the services of a  
85 consignee selling works of art, as defined in subsection (b) of section  
86 12-376c, or articles of clothing or footwear intended to be worn on or  
87 about the human body other than (i) any special clothing or footwear  
88 primarily designed for athletic activity or protective use and which is  
89 not normally worn except when used for the athletic activity or  
90 protective use for which it was designed, and (ii) jewelry, handbags,  
91 luggage, umbrellas, wallets, watches and similar items carried on or  
92 about the human body but not worn on the body in the manner  
93 characteristic of clothing intended for exemption under subdivision  
94 (47) of section 12-412, under consignment, exclusive of services  
95 provided by an auctioneer, (T) locksmith services, (U) advertising or  
96 public relations services, including layout, art direction, graphic  
97 design, mechanical preparation or production supervision, not related  
98 to the development of media advertising or cooperative direct mail  
99 advertising, (V) landscaping and horticulture services, (W) window  
100 cleaning services, (X) maintenance services, (Y) janitorial services, (Z)  
101 exterminating services, (AA) swimming pool cleaning and  
102 maintenance services, (BB) renovation and repair services as set forth  
103 in this subparagraph, to other than industrial, commercial or  
104 income-producing real property: Paving of any sort, painting or  
105 staining, wallpapering, roofing, siding and exterior sheet metal work,  
106 (CC) miscellaneous personal services included in industry group 729  
107 in the Standard Industrial Classification Manual, United States Office  
108 of Management and Budget, 1987 edition, or U.S. industry 532220,  
109 812191, 812199 or 812990 in the North American Industrial  
110 Classification System United States manual, United States Office of  
111 Management and Budget, 1997 edition, exclusive of (i) services

112 rendered by massage therapists licensed pursuant to chapter 384a, and  
113 (ii) services rendered by a hypertrichologist licensed pursuant to  
114 chapter 388, (DD) any repair or maintenance service to any item of  
115 tangible personal property including any contract of warranty or  
116 service related to any such item, (EE) business analysis, management  
117 or managing consulting services rendered by a general partner, or an  
118 affiliate thereof, to a limited partnership, provided (i) that the general  
119 partner, or an affiliate thereof, is compensated for the rendition of such  
120 services other than through a distributive share of partnership profits  
121 or an annual percentage of partnership capital or assets established in  
122 the limited partnership's offering statement, and (ii) the general  
123 partner, or an affiliate thereof, offers such services to others, including  
124 any other partnership. As used in subparagraph (EE)(i) "an affiliate of  
125 a general partner" means an entity which is directly or indirectly  
126 owned fifty per cent or more in common with a general partner; and  
127 (FF) notwithstanding the provisions of section 12-412, as amended,  
128 except subsection (87) thereof, patient care services, as defined in  
129 subsection [(30)] (29) of this section by a hospital; (j) the leasing or  
130 rental of tangible personal property of any kind whatsoever, including,  
131 but not limited to, motor vehicles, linen or towels, machinery or  
132 apparatus, office equipment and data processing equipment, provided  
133 for purposes of this subdivision and the application of sales and use  
134 tax to contracts of lease or rental of tangible personal property, the  
135 leasing or rental of any motion picture film by the owner or operator of  
136 a motion picture theater for purposes of display at such theater shall  
137 not constitute a sale within the meaning of this subsection; (k) the  
138 rendering of telecommunications service, as defined in subsection (26)  
139 of this section, for a consideration on or after January 1, 1990, exclusive  
140 of any such service rendered by an employee for [his] the employer of  
141 such employee, subject to the provisions related to telecommunications  
142 service in accordance with section 12-407a; (l) the rendering of  
143 community antenna television service, as defined in subsection (27) of  
144 this section, for a consideration on or after January 1, 1990, exclusive of

145 any such service rendered by an employee for [his] the employer of  
146 such employee; (m) the transfer for consideration of space or the right  
147 to use any space for the purpose of storage or mooring of any  
148 noncommercial vessel, exclusive of dry or wet storage or mooring of  
149 such vessel during the period commencing on the first day of  
150 November in any year to and including the thirtieth day of April of the  
151 next succeeding year; (n) the sale for consideration of naming rights to  
152 any place of amusement, entertainment or recreation within the  
153 meaning of subdivision (3) of section 12-540; (o) the transfer for  
154 consideration of a prepaid telephone calling service, as defined in  
155 section 3 of this act, and the recharge of a prepaid telephone calling  
156 service, provided, if the sale or recharge of a prepaid telephone calling  
157 service does not take place at the retailer's place of business, the sale or  
158 recharge shall be conclusively determined to take place at the  
159 customer's shipping address, or, if there is no item shipped, at the  
160 customer's billing address or the location associated with the  
161 customer's mobile telephone number. Wherever in this chapter  
162 reference is made to the sale of tangible personal property or services,  
163 it shall be construed to include sales described in this subsection,  
164 except as may be specifically provided to the contrary.

165 Sec. 2. Subdivision (26) of section 12-407 of the general statutes, as  
166 amended by section 10 of public act 99-173, section 10 of public act 99-  
167 285 and sections 1 and 3 of this act, is repealed and the following is  
168 substituted in lieu thereof:

169 (26) (a) "Telecommunications service" means the transmission of any  
170 interactive electromagnetic communications including but not limited  
171 to voice, image, data and any other information, by means of but not  
172 limited to wire, cable, including fiber optical cable, microwave, radio  
173 wave or any combinations of such media, and the leasing of any such  
174 service. "Telecommunications service" includes but is not limited to  
175 basic telephone service, including any facility or service provided in  
176 connection with such basic telephone service, toll telephone service

177 and teletypewriter or computer exchange service, including but not  
178 limited to residential and business service, directory assistance, two-  
179 way cable television service, cellular mobile telephone or  
180 telecommunication service, specialized mobile radio and pagers and  
181 paging service, including any form of mobile two-way communication.  
182 "Telecommunications service" does not include (1) nonvoice services in  
183 which computer processing applications are used to act on the  
184 information to be transmitted, (2) any one-way radio or television  
185 broadcasting transmission, (3) any telecommunications service (A)  
186 rendered by a company in control of such service when rendered for  
187 private use within its organization (B) used, allocated or distributed by  
188 a company within its organization, including in such organization  
189 affiliates, as defined in section 33-840, for the purpose of conducting  
190 business transactions of the organization if such service is purchased  
191 or leased from a company rendering telecommunications service and  
192 such purchase or lease is subject to tax under this chapter, and (4)  
193 access or interconnection service purchased by a provider of  
194 telecommunications service from another provider of such service for  
195 purposes of rendering such service, provided the purchaser submits to  
196 the seller a certificate attesting to the applicability of this exclusion,  
197 upon receipt of which the seller is relieved of any tax liability for such  
198 sale so long as the certificate is taken in good faith by the seller.

199 (b) For purposes of the tax imposed under this chapter (1) gross  
200 receipts from the rendering of telecommunications service shall  
201 include any subscriber line charge or charges as required by the  
202 Federal Communications Commission and any charges for access  
203 service collected by any person rendering such service unless  
204 otherwise excluded from such gross receipts under this chapter; [and]  
205 (2) gross receipts from the rendering of telecommunications service  
206 shall not include any local charge for calls from public or semipublic  
207 telephones; and (3) gross receipts from the rendering of  
208 telecommunications service shall not include any charge for calls  
209 purchased using a prepaid telephone calling service, as defined in

210 section 3 of this act.

211       Sec. 3. Section 12-407 of the general statutes, as amended by section  
212 10 of public act 99-173 and section 10 of public act 99-285, is amended  
213 by adding subsection (31) as follows:

214       (NEW) (31) "Prepaid telephone calling service" means the right to  
215 exclusively purchase telecommunications service, that must be paid for  
216 in advance and that enables the origination of calls using an access  
217 number or authorization code, or both, whether manually or  
218 electronically dialed, provided the remaining amount of units of  
219 service that have been prepaid shall be known on a continuous basis.

220       Sec. 4. Section 12-407 of the general statutes, as amended by sections  
221 10, 11 and 12 of public act 99-173 and section 10 of public act 99-285, is  
222 amended by adding subsection (31) as follows:

223       (NEW) (31) "Prepaid telephone calling card" means any card or  
224 other similar arrangement, including prepaid authorization numbers,  
225 which permits the holder to obtain telecommunications service and to  
226 pay for such service in advance

227       Sec. 5. Subsection (1) of section 12-408 of the general statutes, as  
228 amended by section 13 of public act 99-173, is repealed and the  
229 following is substituted in lieu thereof:

230       (1) For the privilege of making any sales as defined in subdivision  
231 (2) of section 12-407, as amended by this act, at retail, in this state for a  
232 consideration, a tax is hereby imposed on all retailers at the rate of six  
233 per cent of the gross receipts of any retailer from the sale of all tangible  
234 personal property sold at retail or from the rendering of any services  
235 constituting a sale in accordance with subdivision (2) of section 12-407,  
236 as amended by this act, except, in lieu of said rate of six per cent, (A) at  
237 a rate of twelve per cent with respect to each transfer of occupancy,  
238 from the total amount of rent received for such occupancy of any room



239 or rooms in a hotel or lodging house for the first period not exceeding  
240 thirty consecutive calendar days, (B) with respect to the sale of a motor  
241 vehicle to any individual who is a member of the armed forces of the  
242 United States and is on full-time active duty in Connecticut and who is  
243 considered, under 50 App USC 574, a resident of another state, or to  
244 any such individual and the spouse thereof, at a rate of four and  
245 one-half per cent of the gross receipts of any retailer from such sales,  
246 provided such retailer requires and maintains [an affidavit] a  
247 declaration by such individual, prescribed as to form by the  
248 commissioner and bearing notice to the effect that false statements  
249 made in such declaration are punishable, or other evidence,  
250 satisfactory to the commissioner, concerning the purchaser's state of  
251 residence under 50 App USC 574, (C) with respect to the sales of  
252 computer and data processing services occurring on or after July 1,  
253 1997, and prior to July 1, 1998, at the rate of five per cent, on or after  
254 July 1, 1998, and prior to July 1, 1999, at the rate of four per cent, on or  
255 after July 1, 1999, and prior to July 1, 2000, at the rate of three per cent,  
256 on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per  
257 cent, on or after July 1, 2001, and prior to July 1, 2002, at the rate of one  
258 per cent and on and after July 1, 2002, such services shall be exempt  
259 from such tax, (D) with respect to the sales of labor [,] that is otherwise  
260 taxable under subdivision (c) or (g) of subsection (2) of section 12-407,  
261 as amended, on existing vessels and repair or maintenance services on  
262 vessels [, as defined in section 15-127,] occurring on and after July 1,  
263 1999, such services shall be exempt from such tax, (E) with respect to  
264 sales of the renovation and repair services of paving of any sort,  
265 painting or staining, wallpapering, roofing, siding and exterior sheet  
266 metal work, to other than industrial, commercial or income-producing  
267 real property, occurring on or after July 1, 1999, and prior to July 1,  
268 2000, at the rate of four per cent, with respect to such sales occurring  
269 on or after July 1, 2000, but prior to July 1, 2001, at the rate of two per  
270 cent, and on and after July 1, 2001, sales of such renovation and repair  
271 services shall be exempt from such tax, and (F) with respect to patient

272 care services occurring on or after July 1, 1999, at the rate of five and  
273 three-fourths per cent. The rate of tax imposed by this chapter shall be  
274 applicable to all retail sales upon the effective date of such rate, except  
275 that a new rate which represents an increase in the rate applicable to  
276 the sale shall not apply to any sales transaction wherein a binding sales  
277 contract without an escalator clause has been entered into prior to the  
278 effective date of the new rate and delivery is made within ninety days  
279 after the effective date of the new rate. For the purposes of payment of  
280 the tax imposed under this section, any retailer of services taxable  
281 under subdivision (2)(i) of section 12-407, as amended, who computes  
282 taxable income, for purposes of taxation under the Internal Revenue  
283 Code of 1986, or any subsequent corresponding internal revenue code  
284 of the United States, as from time to time amended, on an accounting  
285 basis which recognizes only cash or other valuable consideration  
286 actually received as income and who is liable for such tax only due to  
287 the rendering of such services may make payments related to such tax  
288 for the period during which such income is received, without penalty  
289 or interest, without regard to when such service is rendered.  
290 [Information about the state sales tax rate of other states shall, upon  
291 request, be furnished by the commissioner.]

292 Sec. 6. Subsections (1) to (3), inclusive, of section 12-410 of the  
293 general statutes are repealed and the following is substituted in lieu  
294 thereof:

295 (1 ) For the purpose of the proper administration of this chapter and  
296 to prevent evasion of the sales tax it shall be presumed that all receipts  
297 are gross receipts that are subject to the tax until the contrary is  
298 established. The burden of proving that a sale of tangible personal  
299 property or service constituting a sale in accordance with subsection  
300 (2) of section 12-407, as amended by this act, is not a sale at retail is  
301 upon the person who makes the sale unless [he] such person takes in  
302 good faith from the purchaser a certificate to the effect that the  
303 property or service is purchased for resale.

304 (2) The certificate relieves the seller from the burden of proof only if  
305 taken in good faith from a person who is engaged in the business of  
306 selling tangible personal property or services constituting a sale in  
307 accordance with subsection (2) of section 12-407, as amended by this  
308 act, and who holds the permit provided for in section 12-409 and who,  
309 at the time of purchasing the tangible personal property or service: (A)  
310 Intends to sell it in the regular course of business; (B) intends to utilize  
311 such personal property in the delivery of landscaping or horticulture  
312 services, provided the total sale price of all such landscaping and  
313 horticulture services are taxable under this chapter or (C) is unable to  
314 ascertain at the time of purchase whether the property or service will  
315 be sold or will be used for some other purpose. The burden of  
316 establishing that a certificate is taken in good faith is on the seller. A  
317 certificate to the effect that property or service is purchased for resale  
318 taken from the purchaser by the seller shall be deemed to be taken in  
319 good faith if the tangible personal property or service purchased is  
320 similar to or of the same general character as property or service which  
321 the seller could reasonably assume would be sold by the purchaser in  
322 the regular course of business.

323 (3) The certificate shall be signed by and bear the name and address  
324 of the purchaser, shall indicate the number of the permit issued to the  
325 purchaser and shall indicate the general character of the tangible  
326 personal property or service sold by the purchaser in the regular  
327 course of business. The certificate shall be substantially in such form as  
328 the commissioner prescribes.

329 Sec. 7. Subsection (1) of section 12-411 of the general statutes, as  
330 amended by section 15 of public act 99-173, is repealed and the  
331 following is substituted in lieu thereof:

332 (1) An excise tax is hereby imposed on the storage, acceptance,  
333 consumption or any other use in this state of tangible personal  
334 property purchased from any retailer for storage, acceptance,

335 consumption or any other use in this state, the acceptance or receipt of  
336 any services constituting a sale in accordance with subdivision (2) of  
337 section 12-407, as amended by this act, purchased from any retailer for  
338 consumption or use in this state, or the storage, acceptance,  
339 consumption or any other use in this state of tangible personal  
340 property which has been manufactured, fabricated, assembled or  
341 processed from materials by a person, either within or without this  
342 state, for storage, acceptance, consumption or any other use by such  
343 person in this state, to be measured by the sales price of materials, at  
344 the rate of six per cent of the sales price of such property or services,  
345 except, in lieu of said rate of six per cent, (A) at a rate of twelve per  
346 cent of the rent paid for occupancy of any room or rooms in a hotel or  
347 lodging house for the first period of not exceeding thirty consecutive  
348 calendar days, (B) with respect to the storage, acceptance, consumption  
349 or use in this state of a motor vehicle purchased from any retailer for  
350 storage, acceptance, consumption or use in this state by any individual  
351 who is a member of the armed forces of the United States and is on  
352 full-time active duty in Connecticut and who is considered, under 50  
353 App USC 574, a resident of another state, or to any such individual  
354 and the spouse of such individual at a rate of four and one-half per  
355 cent of the sales price of such vehicle, provided such retailer requires  
356 and maintains [an affidavit] a declaration by such individual,  
357 prescribed as to form by the commissioner and bearing notice to the  
358 effect that false statements made in such declaration are punishable, or  
359 other evidence, satisfactory to the commissioner, concerning the  
360 purchaser's state of residence under 50 App USC 574, (C) [with respect  
361 to the storage, acceptance, consumption or use in this state of a vessel  
362 purchased from any retailer for storage, acceptance, consumption or  
363 any other use in this state by any individual who does not maintain a  
364 permanent place of abode in this state and who is a resident of another  
365 state and who does not present such vessel for registration with the  
366 Department of Motor Vehicles in this state, at a rate which is the lesser  
367 of: (i) Six per cent of the sales price of such vessel; or (ii) the percentage

368 of such sales price that is payable as a state use tax by purchasers  
369 making purchases in the purchaser's state of residence, provided the  
370 retailer requires and maintains an affidavit or other evidence,  
371 satisfactory to the commissioner, concerning the purchaser's state of  
372 residence, (D)] with respect to the [sales of] acceptance or receipt in  
373 this state of labor that is otherwise taxable under subdivision (c) or (g)  
374 of subsection (2) of section 12-407, as amended by this act, on existing  
375 vessels and repair or maintenance services on vessels [as defined in  
376 section 15-127,] occurring [on or after July 1, 1997, and prior to July 1,  
377 1998, at the rate of four per cent, on or after July 1, 1998, and prior to  
378 July 1, 1999, at the rate of two per cent and] on and after July 1, 1999,  
379 such services shall be exempt from such tax, [(E)] (D) with respect to  
380 the acceptance or receipt in this state of computer and data processing  
381 services purchased from any retailer for consumption or use in this  
382 state occurring on or after July 1, 1997, and prior to July 1, 1998, at the  
383 rate of five per cent of such services, on or after July 1, 1998, and prior  
384 to July 1, 1999, at the rate of four per cent of such services, on or after  
385 July 1, 1999, and prior to July 1, 2000, at the rate of three per cent of  
386 such services, on or after July 1, 2000, and prior to July 1, 2001, at the  
387 rate of two per cent of such services, on and after July 1, 2001, and  
388 prior to July 1, 2002, at the rate of one per cent of such services and on  
389 and after July 1, 2002, such services shall be exempt from such tax, [(F)]  
390 (E) with respect to the acceptance or receipt in this state of patient care  
391 services purchased from any retailer for consumption or use in this  
392 state occurring on or after July 1, 1999, at the rate of five and three-  
393 fourths per cent, and [(G)] (E) with respect to acceptance of the  
394 renovation and repair services of paving of any sort, painting or  
395 staining, wallpapering, roofing, siding and exterior sheet metal work,  
396 to other than industrial, commercial or income-producing real  
397 property, occurring on or after July 1, 1999, and prior to July 1, 2000, at  
398 the rate of four per cent, with respect to such sales occurring on or after  
399 July 1, 2000, and prior to July 1, 2001, at the rate of two per cent, and on  
400 and after July 1, 2001, sales of such renovation and repair services shall

401 be exempt from such tax. [Information about the state use tax rate of  
402 other states shall, upon request, be furnished by the commissioner.]

403 Sec. 8. Subsection (9) of section 12-411 of the general statutes is  
404 repealed and the following is substituted in lieu thereof:

405 (9) For the purpose of the proper administration of this chapter and  
406 to prevent evasion of the use tax and the duty to collect the use tax, it  
407 shall be presumed that services or tangible personal property sold by  
408 any person for delivery in this state is sold for storage, acceptance,  
409 consumption or other use in this state until the contrary is established.  
410 The burden of proving the contrary is upon the person who makes the  
411 sale unless [he] such person takes from the purchaser a certificate to  
412 the effect that the services or property is purchased for resale.

413 Sec. 9. Subdivision (5) of section 12-412 of the general statutes is  
414 repealed and the following is substituted in lieu thereof:

415 (5) Sales of tangible personal property or services to and by  
416 nonprofit charitable hospitals in this state, nonprofit nursing homes,  
417 nonprofit rest homes and nonprofit residential care homes licensed by  
418 the state pursuant to chapter 368v for the exclusive purposes of such  
419 institutions except any such service transaction as described in  
420 subparagraph [(GG)] (FF) of subdivision (i) of subsection (2) of section  
421 12-407, as amended by this act.

422 Sec. 10. Subsection (9) of section 12-412 of the general statutes is  
423 repealed and the following is substituted in lieu thereof:

424 (9) Sales of food products, [and] meals, candy, confectionery and  
425 beverages, except alcoholic beverages, in a student cafeteria, dining-  
426 hall, dormitory, fraternity or sorority maintained in a private, public or  
427 parochial school, college or university, to members of such institutions  
428 or organizations, including all sales of such items to such members at  
429 such institutions or organizations using prepaid meal plan cards or

430 arrangements; and sales of food products, [and] meals, candy,  
431 confectionery and beverages to patients, residents or care recipients in  
432 hospitals, residential care homes, assisted living facilities, senior  
433 centers, day care centers, convalescent homes, nursing homes and rest  
434 homes.

435       Sec. 11. Subsection (15) of section 12-412 of the general statutes is  
436 repealed and the following is substituted in lieu thereof:

437       [(15) There are exempted from the taxes imposed by this chapter the  
438 gross receipts from the distribution of and the storage, use or other  
439 consumption in this state of motor vehicle fuel the distribution of  
440 which in this state is subject to the tax imposed by the laws of this  
441 state.]

442       (15) Sales of and the storage, use or other consumption in this state  
443 of motor vehicle fuel (A) for use in any motor vehicle licensed or  
444 required to be licensed to operate upon the public highways of this  
445 state, whether or not the tax imposed under chapter 221 has been paid  
446 on such fuel, or (B) for any other use, if the tax imposed under chapter  
447 221 has been paid on such fuel and has not been refunded under the  
448 provisions of said chapter 221.

449       Sec. 12. Subsection (48) of section 12-412 of the general statutes, as  
450 amended by section 18 of public act 99-173, is repealed and the  
451 following is substituted in lieu thereof:

452       (48) Sales of the following drugs or medicines available for purchase  
453 without prescription for use in or on the [human] body: Vitamin or  
454 mineral concentrates; dietary supplements; natural or herbal drugs or  
455 medicines; products intended to be taken for coughs, colds, asthma or  
456 allergies; antihistamines; laxatives; antidiarrheal medicines;  
457 analgesics; antibiotic, antibacterial, antiviral and antifungal medicines;  
458 antiseptics; astringents; anesthetics; steroidal medicines; anthelmintics;  
459 emetics and antiemetics; antacids; and any medication prepared to be

460 used in [a person's] the eyes, ears or nose, excluding cosmetics,  
461 dentifrices, mouthwash, shaving and hair care products, soaps and  
462 deodorants.

463 Sec. 13. Subdivision (63) of section 12-412 of the general statutes is  
464 repealed and the following is substituted in lieu thereof:

465 (63) (A) Sales of and the storage, use or other consumption of  
466 tangible personal property exclusively for use in agricultural  
467 production, as defined in this subsection, by a farmer engaged in  
468 agricultural production as a trade or business and to whom the  
469 Department of Revenue Services has issued a farmer tax exemption  
470 permit, provided [in the farmer's immediately preceding taxable year  
471 for federal income tax purposes,] such farmer's gross income from  
472 such agricultural production, as reported for federal income tax  
473 purposes, shall have been (i) not less than two thousand five hundred  
474 dollars [, as reported for federal income tax purposes on Schedule C or  
475 Schedule F attached to Internal Revenue Service Form 1040, 1041 or  
476 1065 where the business is conducted by an individual, estate, trust or  
477 partnership or would be reportable on Schedule C or Schedule F but  
478 for the fact that the business is conducted by a corporation] for the  
479 immediately preceding taxable year, or (ii) on average, not less than  
480 two thousand five hundred dollars for the two immediately preceding  
481 taxable years.

482 (B) The Commissioner of Revenue Services shall adopt regulations  
483 in accordance with chapter 54 requiring periodic registration for  
484 purposes of the issuance of farmer tax exemption permits, including  
485 [(1)] (i) a procedure related to the application for such permit, [(2)]  
486 such application to include a declaration, prescribed as to form by the  
487 Commissioner of Revenue Services and bearing notice to the effect that  
488 false statements made in such declaration are punishable, to be signed  
489 by the applicant, and (ii) a form of notice concerning the penalty for  
490 misuse of such permit. [and (3) required notarization of the application



491 of such permit.]

492     ~~(C)~~ As used in this subsection, ~~(i)~~ "agricultural production" means  
493 engaging, as a trade or business, in ~~[(A)]~~ ~~(I)~~ the raising and harvesting  
494 of any agricultural or horticultural commodity, ~~[(B)]~~ ~~(II)~~ dairy farming,  
495 ~~[(C)]~~ ~~(III)~~ forestry, ~~[(D)]~~ ~~(IV)~~ the raising, feeding, caring for, shearing,  
496 training or management of livestock, including horses, bees, poultry,  
497 fur-bearing animals or wildlife or ~~[(E)]~~ ~~(V)~~ the raising and harvesting  
498 of fish, oysters, clams, mussels or other molluscan shellfish; and (ii)  
499 "farmer" means any person engaged in agricultural production as a  
500 trade or business.

501     ~~(D)~~ The Department of Revenue Services may issue a farmer tax  
502 exemption permit to a farmer, notwithstanding the fact that, in the  
503 farmer's immediately preceding taxable year, such farmer's gross  
504 income from agricultural production engaged in as a trade or business  
505 may have been less than two thousand five hundred dollars, provided  
506 (i) such farmer purchased, during such farmer's current or  
507 immediately preceding taxable year, an agricultural trade or business  
508 from a seller who was issued a farmer tax exemption permit by such  
509 department at the time of such purchase and (ii) such agricultural  
510 production [trade or business] shall be carried on as a trade or business  
511 by such purchaser during the period commencing upon the purchase  
512 and ending [five] two years after the date of purchase. Such purchaser  
513 shall be liable for the tax otherwise imposed, during the period  
514 commencing upon such purchase and ending [five] two years after the  
515 date of purchase, if such agricultural production [trade or business] is  
516 not carried on as a trade or business by such purchaser during the  
517 period commencing upon such purchase and ending [five] two years  
518 after the date of purchase.

519     ~~(E)~~ (i) The Department of Revenue Services, under such regulations  
520 as the Commissioner of Revenue Services may adopt in accordance  
521 with the provisions of chapter 54, may issue a farmer tax exemption

522 permit to an applicant, provided such applicant has satisfied the  
523 commissioner that the applicant intends to carry on agricultural  
524 production as a trade or business for at least two years,  
525 notwithstanding the fact that the applicant was not engaged in  
526 agricultural production as a trade or business in the immediately  
527 preceding taxable year or, if the applicant was engaged in agricultural  
528 production as a trade or business in the immediately preceding taxable  
529 year, notwithstanding the fact that the applicant's gross income from  
530 such agricultural production, as reported for federal income tax  
531 purposes, was less than two thousand five hundred dollars for the  
532 immediately preceding taxable year or, on average, less than two  
533 thousand five hundred dollars for the two immediately preceding  
534 taxable years.

535 (ii) Such applicant shall be liable for the tax imposed under this  
536 chapter during the period commencing upon the issuance of the  
537 permit and ending two years after the date of issuance of the permit if  
538 agricultural production is not carried on as a trade or business by such  
539 applicant during such entire period.

540 (iii) Such applicant shall also be liable for the tax otherwise  
541 imposed, during the period commencing upon the issuance of the  
542 permit and ending two years after the date of issuance of the permit, if  
543 (I) such applicant's gross income from such agricultural production, as  
544 reported for federal income tax purposes, is less than two thousand  
545 five hundred dollars for the immediately preceding taxable year or, on  
546 average, less than two thousand five hundred dollars for the two  
547 immediately preceding taxable years and (II) such applicant's expenses  
548 from such agricultural production, as reported for federal income tax  
549 purposes, are less than two thousand five hundred dollars for the  
550 immediately preceding taxable year or, on average, less than two  
551 thousand five hundred dollars for the two immediately preceding  
552 taxable years.

553        (iv) Any applicant liable for tax under subparagraph (ii) or (iii) of  
554 this paragraph shall not be eligible to be issued another permit under  
555 subparagraph (i) of this subdivision.

556        Sec. 14. Section 12-413 of the general statutes is amended by adding  
557 subsection (4) as follows:

558        (NEW) (4) The use tax shall not apply to the purchase of any articles  
559 of tangible personal property by a retailer for resale, if those articles  
560 are subsequently withdrawn from inventory and donated by the  
561 retailer to (A) the United States, the state of Connecticut or any of the  
562 political subdivisions thereof, or its or their respective agencies, or (B)  
563 any organization that is exempt from federal income tax under Section  
564 501(a) of the Internal Revenue Code of 1986, or any subsequent  
565 corresponding internal revenue code of the United States, as from time  
566 to time amended, and that the United States Treasury Department has  
567 expressly determined, by letter, to be an organization that is described  
568 in Section 501(c)(3) of said internal revenue code.

569        Sec. 15. Section 12-416a of the general statutes is repealed and the  
570 following is substituted in lieu thereof:

571        The Commissioner of Revenue Services is authorized to pay to a  
572 municipal agency an amount not to exceed fifty per cent of the tax  
573 actually collected as the result of an assessment made under section 12-  
574 415, as amended, or 12-416, as amended, against the purchaser of a  
575 vessel, as defined in subdivision (24) of section 12-407, if said  
576 commissioner, in [his] the commissioner's sole discretion, determines  
577 that information provided by such agency was instrumental in the  
578 making of such assessment. Notwithstanding the provisions of section  
579 12-15, as amended, the commissioner may disclose to a municipal  
580 agency that receives a payment under this section the name and  
581 address of the person against whom the assessment is made, the  
582 amount of the tax actually assessed and the amount of the tax actually  
583 collected with respect to which such a payment may be made.

584       Sec. 16. Section 12-418 of the general statutes, as amended by section  
585       14 of public act 99-121, is repealed and the following is substituted in  
586       lieu thereof:

587       (1) (A) Any person against whom an assessment is made under  
588       section 12-414a, 12-415, as amended, [or] 12-416, as amended, or 12-  
589       424, as amended by this act, or any person directly interested may  
590       petition for a reassessment not later than sixty days after service upon  
591       such person of notice thereof. If a petition for reassessment is not filed  
592       within the sixty-day period, the assessment becomes final at the  
593       expiration of the period.

594       (B) Any person against whom an assessment is made under section  
595       12-417, as amended, or any person directly interested may petition for  
596       a reassessment not later than ten days after service of notice upon such  
597       person. If a petition for reassessment is not filed within such ten-day  
598       period, the assessment becomes final at the expiration of the period.

599       (2) If a petition for reassessment is filed within the sixty-day period,  
600       in the case of an assessment made under section 12-414a, 12-415, as  
601       amended, [or] 12-416, as amended, or 12-424, as amended by this act,  
602       or within the ten-day period, in the case of an assessment made under  
603       section 12-417, as amended, the commissioner shall reconsider the  
604       assessment and, if the person has so requested in the petition, shall, in  
605       the commissioner's discretion, grant the person an oral hearing and  
606       shall give such person ten days' notice of the time and place of the  
607       hearing. The commissioner may continue the hearing from time to  
608       time, as may be necessary, and may assign the conduct of such hearing  
609       to a representative of the commissioner.

610       (3) The commissioner may decrease or increase the amount of the  
611       assessment before it becomes final, but the amount may be increased  
612       only if a claim for the increase is asserted by the commissioner at or  
613       before the hearing.

614 (4) The order or decision of the commissioner upon a petition for  
615 reassessment becomes final one month after service upon the  
616 petitioner of notice thereof unless within such period the petitioner  
617 seeks judicial review of the commissioner's order or decision pursuant  
618 to section 12-422.

619 (5) All assessments made by the commissioner under [sections]  
620 section 12-414a, 12-415, as amended, [and] 12-416, as amended, or 12-  
621 424, as amended by this act, are due and payable at the time they  
622 become final.

623 (6) Any notice required by this section shall be served personally or  
624 by mail in the manner prescribed for service of notice of a deficiency  
625 assessment.

626 Sec. 17. Section 12-424 of the general statutes is repealed and the  
627 following is substituted in lieu thereof:

628 (1) If any [retailer] person liable for any amount under this chapter  
629 sells out his or her business or stock of goods or quits the business,  
630 [his] such person's successors or assigns shall withhold sufficient of the  
631 purchase price to cover such amount until the former owner produces  
632 a receipt from the commissioner showing that it has been paid or a  
633 certificate stating that no amount is due.

634 (2) If the purchaser of a business or stock of goods fails to withhold  
635 the purchase price as required, [he] such purchaser becomes  
636 personally liable for the payment of the amount required to be  
637 withheld by [him] the purchaser to the extent of the purchase price,  
638 valued in money. Within sixty days after receiving a written request  
639 from the purchaser for a certificate, the commissioner shall either issue  
640 the certificate or mail notice to the purchaser at [his] said purchaser's  
641 address as it appears on the records of the commissioner of the amount  
642 that must be paid as a condition of issuing the certificate. Failure of the  
643 commissioner to mail the notice shall release the purchaser from any

644 further obligation to withhold the purchase price as above provided.  
645 The time within which the obligation of the successor may be enforced  
646 shall start to run at the time the [retailer] person sells out his or her  
647 business or stock of goods or quits the business or at the time that the  
648 assessment against [the retailer] such person becomes final, whichever  
649 event occurs later.

650 Sec. 18. Subsection (7) of section 12-430 of the general statutes is  
651 repealed and the following is substituted in lieu thereof:

652 (7) (a) (i) When a nonresident contractor enters into a contract with a  
653 person other than a direct payment permit holder, as the term is used  
654 in section 12-409a, as amended, pursuant to which, or in the carrying  
655 out of which, tangible personal property will be consumed or used in  
656 this state, such nonresident contractor shall deposit with the  
657 Commissioner of Revenue Services at the commencement of such  
658 contract a sum equivalent to five per cent of the total amount to be  
659 paid under the contract or shall furnish the Commissioner of Revenue  
660 Services with a guarantee bond satisfactory to said commissioner in a  
661 sum equivalent to five per cent of such total amount, to secure  
662 payment of the taxes payable with respect to tangible personal  
663 property consumed or used pursuant to or in the carrying out of such  
664 contract or any other state taxes, and shall obtain a certificate from the  
665 Commissioner of Revenue Services that the requirements of this  
666 subsection have been met. [; ]

667 (ii) When a nonresident contractor enters into a contract with a  
668 direct payment permit holder pursuant to which, or in the carrying out  
669 of which, tangible personal property will be consumed or used in this  
670 state, such nonresident contractor shall deposit with the Commissioner  
671 of Revenue Services at the commencement of such contract a sum  
672 equivalent to two per cent of the total amount to be paid under the  
673 contract or shall furnish the Commissioner of Revenue Services with a  
674 guarantee bond satisfactory to said commissioner in a sum equivalent

675 to two per cent of such total amount, to secure payment of the taxes  
676 payable with respect to tangible personal property consumed or used  
677 pursuant to or in the carrying out of such contract or any other state  
678 taxes, and shall obtain a certificate from the Commissioner of Revenue  
679 Services that the requirements of this subsection have been met.

680 (b) [any] (i) Any person other than a direct payment permit holder  
681 dealing with a nonresident contractor without first obtaining a copy of  
682 such certificate from said commissioner shall no later than thirty days  
683 after the commencement of such contract deduct five per cent of all  
684 amounts payable to such nonresident contractor and pay it over to said  
685 commissioner on behalf of or as agent for such nonresident contractor  
686 or shall furnish said commissioner with a guarantee bond satisfactory  
687 to said commissioner in a sum equivalent to five per cent of such total  
688 amount, to secure payment of the taxes payable with respect to such  
689 tangible personal property consumed or used pursuant to or in the  
690 carrying out of such contract or any other state taxes. [;]

691 (ii) Any direct payment permit holder dealing with a nonresident  
692 contractor without first obtaining a copy of such certificate from said  
693 commissioner shall no later than thirty days after the commencement  
694 of such contract deduct two per cent of all amounts payable to such  
695 nonresident contractor and pay it over to said commissioner on behalf  
696 of or as agent for such nonresident contractor or shall furnish said  
697 commissioner with a guarantee bond satisfactory to said commissioner  
698 in a sum equivalent to two per cent of such total amount, to secure  
699 payment of the taxes payable with respect to such tangible personal  
700 property consumed or used pursuant to or in the carrying out of such  
701 contract or any other state taxes.

702 (c) [if] If any person dealing with such nonresident contractor fails  
703 to comply with subdivision (b) of this subsection, such person shall be  
704 personally liable for payment of the taxes imposed by this chapter with  
705 respect to such tangible personal property consumed or used pursuant

706 to or in carrying out such contract or any other state taxes. [;]

707 (d) [when] When a nonresident contractor enters into a contract  
708 with the state, said contractor shall provide the Labor Department  
709 with evidence demonstrating compliance with the provisions of  
710 chapters 567 and 568, the prevailing wage requirements of chapter 557  
711 and any other provisions of the general statutes related to conditions  
712 of employment.

713 Sec. 19. Subsection (a) of section 12-431 of the general statutes, as  
714 amended by section 29 of public act 99-173, is repealed and the  
715 following is substituted in lieu thereof:

716 (a) [In] (1) Except as otherwise provided in subdivision (2) of this  
717 subsection, in case of the purchase of any motor vehicle, snowmobile,  
718 vessel or aircraft other than from a licensed motor vehicle dealer or  
719 licensed motor vehicle lessor, a snowmobile dealer, a licensed marine  
720 dealer or a retailer of aircraft, respectively, the receipts therefrom shall  
721 not be included in the measure of the sales tax, but the purchaser  
722 thereof shall pay a use tax on the total purchase price thereof to the  
723 Commissioner of Revenue Services, as provided in section 12-411, as  
724 amended, in the case of tangible personal property purchased from a  
725 retailer, and, in the case of motor vehicles, vessels and snowmobiles,  
726 before obtaining an original or transferal registration, in accordance  
727 with regulations prescribed by the Commissioner of Revenue Services  
728 and on forms approved by the Commissioner of Revenue Services and  
729 the Commissioner of Motor Vehicles, and, in the case of aircraft, before  
730 obtaining an original or transferal registration, in accordance with  
731 regulations prescribed by the Commissioner of Revenue Services and  
732 on forms approved by the Commissioner of Revenue Services and the  
733 Commissioner of Transportation. [; provided no]

734 (2) No use tax shall be payable in cases of purchase [(1)] (A) when  
735 the purchaser is the spouse, mother, father, brother, sister or child of  
736 the seller, [(2)] (B) when a motor vehicle or vessel is sold in connection



737 with the organization, reorganization or liquidation of an incorporated  
738 business, provided [(A)] the last taxable sale or use of the motor  
739 vehicle or vessel was subjected to a tax imposed by this chapter [, (B)]  
740 and the purchaser is the incorporated business or a stockholder  
741 thereof, [and (C) any gain or loss to the seller is not recognized for  
742 federal income tax purposes under the provisions of the Internal  
743 Revenue Code and Treasury regulations and rulings issued  
744 thereunder, (3)] (C) when a motor vehicle is sold in connection with  
745 the organization or termination of a partnership or limited liability  
746 company, provided [(A)] the last taxable sale or use of the motor  
747 vehicle was subjected to a tax imposed by this chapter [, (B)] and the  
748 purchaser is the partnership or limited liability company, as the case  
749 may be, or a partner or member, thereof, as the case may be, [and (C)  
750 any gain or loss to the seller is not recognized for federal income tax  
751 purposes under the provisions of the Internal Revenue Code and  
752 Treasury regulations and rulings issued thereunder, or (4)] or (D)  
753 when a motor vehicle which has been declared a total loss pursuant to  
754 the provisions of section 14-16c, as amended, is rebuilt for sale or use,  
755 provided the purchaser was subjected to the tax imposed by this  
756 chapter for the last taxable sale of said vehicle.

757 Sec. 20. Subdivision (4) of section 12-540 of the general statutes, as  
758 amended by section 49 of public act 99-173 and section 3 of public act  
759 99-235, is repealed and the following is substituted in lieu thereof:

760 (4) "Dues" shall include assessment charges to members irrespective  
761 of the purpose for which made and any charges for social, athletic or  
762 sporting privileges or facilities for any period of more than six days  
763 but not including charges made for instruction, charges for locker  
764 rental or charges for special assessments made (A) for the construction  
765 or reconstruction of any social, athletic or sporting facility or any  
766 increase in charges made after June 29, 1999, which increase is to be  
767 used for the acquisition of land provided such land is "farm land",  
768 "open space land" or "forest land", as defined in section 12-107b, and

769 further provided that an application or applications pursuant to  
770 section 12-107c, 12-107d or 12-107e are made for the assessment list  
771 next following the acquisition of such land, or (B) for the construction  
772 or reconstruction of any capital addition to any such facility, or (C)  
773 furnishings or fixtures, including installation charges, for any such  
774 facility, to the extent that such furnishings or fixtures are required, by  
775 reason of the construction or reconstruction described in subdivision  
776 (A) or (B) of this subsection, for the use of such facility upon  
777 completion of such construction or reconstruction; except that, in the  
778 case of any such amount which is not expended for such construction,  
779 reconstruction, furnishings or fixtures, including installation charges,  
780 within three years after the date of payment of such amount, the  
781 exemption provided by this subsection shall cease to apply upon the  
782 expiration of such three-year period, and the club shall be liable for  
783 any tax imposed by section 12-543, as amended, in respect of such  
784 payment, as if such payment had been made on the first day following  
785 the expiration of such three-year period.

786 Sec. 21. Subsection (a) of section 12-556g of the general statutes is  
787 repealed and the following is substituted in lieu thereof:

788 (a) A facilities surcharge shall be imposed on the admission charge,  
789 as defined in subsection (3) of section [12-450] 12-540, as amended, to  
790 the events at facilities owned or managed by the Tennis Foundation of  
791 Connecticut or any successor organization. The surcharge shall be  
792 imposed at a rate of ten per cent of such admission charge and shall be  
793 in addition to any tax otherwise applicable to such transaction. The  
794 surcharge shall be imposed on sponsors and promoters of events held  
795 at facilities owned or managed by the Tennis Foundation of  
796 Connecticut or any successor organization and reimbursement for the  
797 surcharge shall be collected by the sponsor or promoter from the  
798 purchaser. Such reimbursement shall be paid by the purchaser to the  
799 sponsor or promoter. The surcharge, when added to the admission  
800 charge, shall be a debt from the purchaser to the sponsor or promoter

801 and shall be recoverable at law.

802       Sec. 22. This act shall take effect October 1, 2000, for sales made on  
803 or after said date, except that sections 15 and 16 shall take effect July 1,  
804 2000, and shall be applicable to assessments made on or after said date;  
805 section 17 shall take effect October 1, 2000, and shall be applicable to  
806 sales of a business or stock of goods occurring on or after said date;  
807 section 18 shall take effect October 1, 2000, and shall be applicable to  
808 contracts entered into on or after said date; and sections 20 and 21 shall  
809 take effect October 1, 2000, and shall be applicable to charges made on  
810 or after said date.

**FIN   Committee Vote:**   Yea   39   Nay   0   JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Revenue Gain, Preclude Revenue Gain,  
Revenue Loss

**Affected Agencies:** Department of Revenue Services

**Municipal Impact:** None

**Explanation****State Impact:**

The annual revenue gain to the Sales and Use Tax as a result of modifying when the tax is applied on pre-paid phone card is estimated to be between \$100,000 to \$300,000 per year.

The bill precludes a minimal revenue gain as a result of clarifying the exemption of food products and meals sold at educational institutions and health and care facilities in order to resolve a compliance issue. Currently some but not all such taxpayers are charging sales tax on the sale of candy, confectionary, and non-alcoholic beverages.

There is a minimal revenue loss as a result of exempting property removed by retailers from their inventory and donated to charities or to government agencies.

There is no fiscal impact as a result of exempting nonprescription

drugs and medicines for use on animals from the Sales and Use Tax. PA 99-173 expanded the exemption for nonprescription medicines and drugs it unintentionally made medicines used on animals taxable by limiting it to just for use in the human body.

There is a revenue loss to the Sales and Use Tax as a result of accelerating the qualification for farmers' exemption from 5 years to 2 years is anticipated to be minimal.

There is also a revenue loss to the Dues Tax as a result of exempting club locker rentals from the tax, which is estimated to be \$200,000 per year.

The bill makes various other technical and conforming changes, which have no fiscal impact.

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**OLR Bill Analysis**

sSB 525

***AN ACT MAKING CHANGES TO VARIOUS SALES AND USE TAX STATUTES AND THE ADMISSIONS AND DUES TAX STATUTES.*****SUMMARY:**

This bill exempts the following from the sales tax:

1. candy, confectionery, and nonalcoholic beverages sold to organization or institution members in a student cafeteria, dining hall, dormitory, fraternity or sorority in a school, college, or university;
2. food, beverages, and meals sold to such people under prepaid meal plans;
3. candy, confectionary, and beverages sold to patients, residents, or care recipients in hospitals; residential care, convalescent, nursing, and rest homes; and assisted living facilities, senior centers, and day care centers;
4. food and meals sold to patients, residents, or care recipients in assisted living facilities, senior centers, and day care centers; and
5. nonprescription drugs for animals.

It requires someone buying or recharging a prepaid phone card to pay sales tax when he buys or recharges the card and exempts calls made with such cards from the sales tax paid by telecommunications companies.

The bill also:

1. exempts locker rental charges imposed by social, athletic, and sporting clubs from the 10% dues tax (such charges remain subject to the sales tax);
2. exempts from the use tax items a retailer takes from inventory and donates to a government or nonprofit agency;
3. eases certain requirements for farmers to qualify for sales and use tax exemption permits;
4. alters the treatment of motor vehicle fuels under the sales tax;
5. eliminates certain affidavit requirements; and
6. makes minor changes concerning taxation of vessels; sales for resale certificates; the rights and liabilities of successor owners of businesses; security requirements for out-of-state contractors; and casual sales of motor vehicles, vessels, snowmobiles, and aircraft in connection with certain business reorganizations.

Finally, the bill updates the definition of taxable “miscellaneous personal services” by adding corresponding references to the 1997 North American Industrial Classification System manual to existing references to the 1987 Standard Industrial Classification manual and makes other technical changes.

EFFECTIVE DATE: July 1, 2000 and October 1, 2000 as follows:

1. Sales tax changes apply to sales on or after October 1, 2000.
2. Disclosure and tax assessment challenge changes apply to assessments on or after July 1, 2000.
3. The extension of successor liability to businesses other than retailers applies to sales of business or stocks of goods on or after October 1, 2000.
4. Out-of-state contractor bonding and withholding changes apply to contracts entered into on or after October 1, 2000.

5. The dues tax change applies to charges on or after October 1, 2000.

### **PREPAID PHONE CARDS**

In deciding whether the state sales tax applies when a prepaid phone card is not sold or recharged at a retailer's place of business, the bill requires the Department of Revenue (DRS) to use the customer's shipping address or, if there is none, his billing address or the location associated with his mobile phone number.

The bill defines "prepaid telephone calling service" and "prepaid telephone calling card" for purposes of the sales tax, although neither the bill nor the current law uses the latter term. Both definitions basically cover service or cards that allow a customer to use access numbers or authorization codes to make phone calls that the customer paid for in advance.

### **EXEMPTIONS FOR FARMERS**

The bill allows a farmer to qualify for a tax exemption permit if his average income from farming for the last two years, instead of just for the last year, is at least \$2,500. It eliminates requirements that the farmer's income have been reported on specific federal income tax forms and requires only that it be his income for federal tax purposes.

The bill allows DRS to issue tax exemption permits to startup farmers who buy farms or who earned less than \$2,500 from their farms in the preceding two years as long as the new farmer stays or promises to stay in the business of farming for the next two, rather than the next five, years. It makes the farmer liable for back taxes if, for the two years after he receives the exemption permit, his gross income from farming and his agricultural expenses in either the preceding year or averaged over the previous two years, drop below \$2,500 per year. It also makes such a farmer ineligible for a new permit.

### **MOTOR FUELS**

The bill alters the sales and use tax exemption for motor vehicle fuels. Under current law, gross receipts from distribution, storage, use, and consumption of motor vehicle fuel are exempt from sales and use tax if



the fuel distribution is “subject to” the motor vehicle fuel tax. Certain sales, such as to municipalities and transit districts, are not subject to that tax.

Under the bill, motor vehicle fuel is exempt (1) if it is used for motor vehicles licensed to operate in Connecticut, whether or not the motor vehicle fuel tax has been paid on it, or (2) if it is used for anything else and the motor vehicle fuel tax has been paid on it and not refunded.

### **AFFIDAVITS ELIMINATED**

The bill eliminates the requirement that a retailer maintain an affidavit concerning the buyer’s state of residence when he charges the 4.5% tax rate on a motor vehicle he sells to a member of the armed forces on full-time active duty here. Instead, it requires him to keep the buyer’s declaration, in a form prescribed by the DRS commissioner and signed under penalty of false statement. The bill makes the same change for the use tax.

It requires a farmer applying for a tax exemption permit to file a declaration, in a form prescribed by DRS and signed under penalty of false statement, that he qualifies rather than requiring him to file a notarized application.

### **VESSELS**

The bill allows DRS to disclose certain information about a vessel buyer against whom it makes an assessment for unpaid sales and use taxes to the town whose information led to the assessment. The commissioner may disclose the person’s name and address, the amount of tax assessed, and the amount collected. By law, the commissioner can share up to 50% of any amount collected with the municipality.

The bill specifies that existing sales and use tax exemptions for labor on vessels apply to fabrication or special order labor on existing vessels. It also eliminates a definition of a “vessel” as any watercraft other than a seaplane.

The bill eliminates obsolete language concerning the use tax rate for nonresidents who use a vessel in Connecticut without registering it here. The use tax on such vessels was eliminated in 1999.

It eliminates a requirement that the DRS commissioner furnish information about sales and use tax rates in other states on request.

### **SALES FOR RESALE CERTIFICATES**

The bill specifies that provisions concerning sales for resale certificates apply to services, as well as property, purchased for resale. By law, property or services purchased for resale are tax-exempt. The certificates testify that the purchaser is buying the property for resale.

### **TAX ASSESSMENT CHALLENGES**

The bill extends the right to challenge a sales and use tax assessment to entities responsible for paying taxes on behalf of a retailer and to successor owners of businesses that owe taxes. It also extends liability for paying sales and use taxes to anyone who takes over any kind of business that was supposed to pay the tax, not just to retailers who take over other retailers.

### **SECURITY REQUIREMENTS FOR OUT-OF-STATE CONTRACTORS**

The bill reduces, from 5% to 2%, the tax payment security and withholding requirements for out-of-state contractors of direct payment permit holders. (A direct payment permit holder buys tangible personal property or services under circumstances that make it difficult to determine, at the time of purchase, how the property or services will be used.)

It requires all out-of-state contractors, regardless of whether they are dealing with direct payment permit holders, to pay the security to the DRS commissioner at the start of the contract. In addition, it requires a person dealing with an out-of-state contractor who does not get a DRS certificate stating that the contractor posted the required security, to pay the required 5% withholding (or 2% in the case of a direct payment permit holder) from the amount payable under the contract

to the DRS commissioner within 30 days after the contract starts.

## **CASUAL SALES**

By law, sales of motor vehicles, vessels, snowmobiles, and aircraft in connection with a business reorganization or liquidation or the organization or liquidation of a partnership or limited liability company are not taxable. This bill eliminates the requirement that, to be eligible for the exemption, the gain or loss to the seller not be recognized for federal income tax purposes.

## **BACKGROUND**

### ***Dues Tax Exemption***

By law, the dues tax does not apply to clubs that (1) charge less than \$100 for memberships or (2) are sponsored and controlled by charitable or religious organizations, nonprofit educational institutions, or government agencies.

## **COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 39      Nay 0